

Customs Bulletin

Regulations, Rulings, Decisions, and Notices
concerning Customs and related matters



and Decisions

of the United States Court of Customs and
Patent Appeals and the United States
Court of International Trade

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International Trade Commission Notices

THE DEPARTMENT OF THE TREASURY
U.S. Customs Service

NOTICE

The abstracts, rulings, and notices which are issued weekly by the U.S. Customs Service are subject to correction for typographical or other printing errors. Users may notify the U.S. Customs Service, Logistics Management Division, Washington, D.C. 20229, of any such errors in order that corrections may be made before the bound volumes are published.

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U.S. Customs Service

Treasury Decisions

(T.D. 81-184)

BONDS

Approval and discontinuance of Carrier's Bonds, Customs Form 3587

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: July 9, 1981.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
BAIR Transport, Inc., P.O. Box 216, Riverside, NJ; motor carrier; St. Paul Fire & Marine Ins. Co.	Oct. 9, 1979	May 14, 1981	Philadelphia, PA \$25,000
P. Callahan, Inc., Comly St., and Delaware River, Phila., PA; motor carrier; United Pacific Ins. Co. D 6/23/81	June 23, 1975	July 16, 1975	Philadelphia, PA \$50,000
Century Lines, Inc., 3725 Lakeside Ave., Cleveland, OH; motor carrier; Washington International Ins. Co.	May 8, 1981	May 12, 1981	Cleveland, OH \$50,000
Chikaskia Valley Trucking, Inc., R.R. 1, Box 22D, Argonia, KS; motor carrier; Tri-State Ins. Co.	Apr. 8, 1981	May 20, 1981	St. Louis, MO \$25,000
Mae Weier dba: Chuck's Cartage Co., 5785 Rochelle Dr., Greendale, WI; motor carrier; Fireman's Ins. Co. of Newark, NJ D 5/29/81	May 29, 1980	July 30, 1980	Milwaukee, WI \$25,000
Distribution Trucking Co., 3800 S.E. 22nd, Portland, OR; motor carrier; Washington International Ins. Co.	May 4, 1981	May 5, 1981	Portland, OR \$25,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Dodsworth, Inc., 928 W. 19th St., P.O. Box 366, Erie, PA; motor carrier; Fidelity & Deposit Co. of MD. (PB 5/14/76) D 5/15/81	May 14, 1981	May 15, 1981	Cleveland, OH \$50,000
Galveston Truck Lines, Corp., 7415 Wingate, Houston, TX; motor carrier; St. Paul Fire & Marine Ins. Co.	May 5, 1981	May 6, 1981	Houston, TX \$25,000
Garafalo & Sons, Inc., 246 Johnston Ave., Jersey City, NJ; motor carrier; Fidelity & Deposit Co. of MD.	Mar. 10, 1981	May 6, 1981	New York Seaport \$25,000
Gorski Bulk Transport, Inc., 843 Central Ave, Windsor, Ontario, Canada; motor carrier; Old Republic Ins. Co. (PB 5/18/67) D 5/18/81 ¹	May 18, 1981	May 18, 1981	Detroit, MI \$70,000
Hallamore Motor Transportation, Inc., 795 Plymouth St., Holbrook, MA; motor carrier; Seaboard Surety Co. (PB 3/16/68) D 4/23/81 ²	Mar. 16, 1981	Apr. 24, 1981	Portland, ME \$25,000
Hendrie and Company Limited, 3 Peter St., Toronto, Ontario, Canada; motor carrier; St. Paul Fire & Marine Ins. Co.	Dec. 9, 1980	May 15, 1981	Brfalo, NY \$25,000
Kramer Trucking Co., Inc., 275 Trumbull St., Elizabeth, NJ; motor carrier; St. Paul Fire & Marine Ins. Co. D 5/15/81	Dec. 5, 1971	Dec. 5, 1971	New York Seaport \$50,000
Miami Transfer Company, Inc., 10340 N.W., 37th Ave., Miami, FL; motor carrier; The Union Indemnity Ins. Co. of New York.	Apr. 10, 1981	May 12, 1981	Miami, FL \$25,000
Motor Express, Inc., P.O. Box 604, Edinburg, TX; motor carrier; Washington International Ins. Co.	Apr. 16, 1981	Apr. 16, 1981	Galveston, TX \$25,000
Motor Express, Inc., 500 Bulkley Bldg., 1501 Euclid Ave., Cleveland, OH; motor carrier; Protective Ins. Co. D 5/20/81	Jan. 1, 1977	Jan. 7, 1977	Cleveland, OH \$25,000
Quirion Transport Inc., 4516 Laval St., Megantic, Quebec, Canada; motor carrier; Peerless Ins. Co. D 5/15/81	Feb. 23, 1978	Feb. 23, 1978	Portland, ME \$25,000
R.A.N. Trucking Co., P.O. Box 128, Rts. 80 & 38, Eau Claire, PA; motor carrier; St. Paul Fire & Marine Ins. Co.	Dec. 3, 1980	May 18, 1981	Newark, NJ \$50,000
Spector Freight System, Inc., 1050 Kingery Hwy., Bensenville, IL; motor carrier; Aetna Casualty & Surety Co. D 5/15/81	Nov. 2, 1976	Nov. 2, 1976	Chicago, IL \$25,000
Stagg Marine, Inc., 800 David Dr., Suite 225, Morgan City, LA; water carrier; Old Republic Ins. Co.	Jan. 26, 1981	May 11, 1981	New Orleans, LA \$50,000
Strothman Express, Inc., 2735 Spring Grove Ave., Cincinnati, OH; motor carrier; Aetna Casualty & Surety Co. D 5/11/81	May 15, 1979	June 11, 1979	Cleveland, OH \$50,000

See footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Tajon, Inc., R.D. #5, Mercer, PA; motor carrier; Liberty Mutual Ins. Co. (PB 11/4/71) D 5/5/81	Apr. 30, 1981	May 5, 1981	Cleveland, OH \$100,000
Thetford Transport Ltd., 1829 N. Smith Blvd., C.P. 305, Thetford Mines, Quebec, Canada; motor carrier; Northwestern National Ins. Co. of Milwaukee, WI.	May 1, 1981	May 20, 1981	Ogdensburg, NY \$50,000
Transocean Transport, Inc., P.O. Box 3234, 930 Hialeah Dr., Suite #5, Hialeah, FL; motor carrier; St. Paul Fire & Marine Ins. Co.	Aug. 25, 1980	Apr. 27, 1981	Miami, FL \$25,000
Mae Weier d/b/a Chuck's Cartage Co. See Chuck's Cartage Co.			

¹ Principal is Mr. Thaddeus A. Gorski dba: Gorski Bulk Transport; Surety is St. Paul Fire & Marine Ins. Co.

² Principal is Hallamore Motor Transportation, Inc. and/or Kennebec Trucking Co., Inc. Surety is Peerless Ins. Co.

(BON-3-03)

GEORGE C. STEUART
(For Marilyn G. Morrison, Director,
Carriers, Drawback and Bonds Division).

(T.D. 81-185)

19 CFR Parts 18 and 24

Acceptance of Customs Seals; New Seal Standards

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide new standards for car, compartment, and package seals used in sealing openings, packages, conveyances, or articles requiring the security provided by such sealing. In addition, a new, less restrictive procedure to obtain Customs acceptance of those seals has been adopted. This action is being taken to (1) establish uniform comprehensive seal standards, and (2) simplify the procedure which makes Customs-accepted seals available for use in domestic and international commerce.

EFFECTIVE DATE: August 17, 1981.

FOR FURTHER INFORMATION CONTACT: Allard P. D'Heur, Cargo Processing Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5354).

SUPPLEMENTARY INFORMATION:

BACKGROUND

All imports entering the United States come under Customs custody and control. Customs assures the collection of lawful duties and taxes on imported merchandise, submission of necessary documents, and compliance with other legal requirements by requiring that Customs bonds be furnished as security by importers, carriers, and other members of the importing community. Certain merchandise imported *in bond* is required to be sealed or the package, compartment, or car in which the merchandise is entered must be sealed to protect its integrity. Various seals have been approved by Customs for that purpose.

In accord with former procedures, manufacturers wishing to have car, compartment, or package seals approved by Customs had to send an application for approval along with a sample of the seal to Customs Headquarters for examination and testing. Customs technical personnel would perform various tests to determine that the seal met Customs standards suitable to the intended use of the seal. Approved seals then were made available to qualified purchasers from either the manufacturer or any of the district directors of Customs.

NOTICE OF SUSPENSION OF SEAL APPROVAL

Because it had been determined that Customs standards for the approval of seals for Customs use no longer reflected current security technology, by a notice published in the Federal Register on January 12, 1978 (43 FR 1806), Customs announced that it would not consider new applications for the approval of seals until new standards were adopted. The notice stated that after adoption of new standards, seals which had been approved might be subject to retesting and re-approval at a later date. The notice also informed the public that Customs was reviewing its technical standards and requirements for approval of all types of Customs seals and invited public participation in establishing revised standards and requirements.

Both of the comments received in response to the notice suggested standards for Customs seals, with one comment devoted almost entirely to "high-security" seals.

FINAL RULE

The notice of suspension of Customs approval of new applications for seals was premised on the need for more stringent seal standards.

Since the publication of that document, however, Customs has revised its policy concerning desirable characteristics for seals. After considering various new standards, Customs has determined that its seal standards should be based upon existing international guidelines developed by the Customs Cooperation Council ("CCC").

The CCC, an intergovernmental organization made up of 89 nations with Headquarters in Brussels, Belgium, deals exclusively with customs matters. Its objective is to obtain, in the interest of international trade, the best possible degree of uniformity and harmony between the customs systems of its member nations. The CCC guidelines were set forth in the June 11, 1968, Recommendation of the Customs Cooperation Council concerning Customs Sealing Systems in connection with the International Transport of Goods, and Annex 2 of the Customs Convention on the International Transit of Goods ("ITI Convention" of June 7, 1971). The standards which are the subject of this amendment are substantially in accord with those international guidelines.

In addition, Customs future acceptance of seals will be based on a manufacturer's attestation that the seals meet or exceed the performance standards described in the amendment rather than by Customs testing of individual seals. If testing is required, it will be performed by the manufacturer or by a private laboratory. Manufacturers will be required to send Customs the seal attestation and, if deemed necessary by Customs, the test record.

Finally, all Customs approvals of seals which already have been granted will be rescinded 150 days after the date of publication of this document in the Federal Register, and no further Customs tests or direct Customs approvals of seals (as opposed to Customs acceptance of seals the standards of which are attested to by a manufacturer) will occur. Manufacturers of any seal already approved by Customs under the previous procedure will have 120 days from the effective date of this document to attest to Customs that the seal meets or exceeds the new standards.

INAPPLICABILITY OF EXECUTIVE ORDER 12291 AND REGULATORY FLEXIBILITY ACT

It has been determined that these amendments do not meet the criteria for a "major rule" specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analyses were required, and none have been prepared for this regulatory project.

In addition, the provisions of section 3 of the Regulatory Flexibility Act requiring regulatory flexibility analyses (5 U.S.C. 603, 604) are not applicable to the amendments because, as noted above, a

notice document was published in the Federal Register prior to January 1, 1981, the effective date of the Act.

DRAFTING INFORMATION

The principal author of this document was Todd J. Schneider, Regulations and Information Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

AMENDMENTS TO THE REGULATIONS

Parts 18 and 24, Customs Regulations (19 CFR Parts 18, 24), are amended as set forth below.

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

1. Section 18.4(a)(2) is amended by deleting the word "valid" in the first sentence.
2. Section 18.4(d) is amended to read as follows:

18.4 Sealing conveyances and compartments; labeling packages; warning cards.

* * * * *

(d) The seals to be used in sealing conveyances, compartments, or packages must meet Customs standards provided in section 24.13a of this chapter, and may be obtained in accordance with section 24.13 of this chapter. (R.S. 251, as amended, secs. 552, 553, 46 Stat. 742, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1552, 1553, 1624)).

PART 24—CUSTOMS ACCOUNTING AND FINANCIAL PROCEDURE

1. Paragraph (a), the first sentence of paragraph (c), and paragraph (d) of section 24.13 are amended to read as follows:

24.13 Car, compartment, and package seals; kind, procurement.

(a) Customs seals accepted pursuant to section 24.13a of this chapter shall be used in sealing openings, packages, conveyances, or articles requiring the security provided by such sealing.

* * * * *

(c) Carriers of merchandise or their commercial associations or comparable representatives approved by the district director of Customs (see paragraph (f) of this section) shall manufacture or purchase quantity supplies of in-bond and in-transit seals accepted by Customs pursuant to the provisions of section 24.13a of this chapter. * * *

(d) The manufacturer or supplier shall ship the seals to the consignee named in the order and shall advise the district di-

rector for the Customs district to which the seals are shipped as to the kind and quantity of seals shipped, the name of the port (where required), serial numbers, and symbol number (where required) stamped thereon, the name and address of the consignee, and the date of shipment.

2. The section heading and section 24.13a are amended to read as follows:

24.13a Car, compartment, and package seals; and fastenings; standards; acceptance by Customs.

(a) *General standards.* The seals and fastenings, together, shall

(1) Be strong and durable;

(2) Be capable of being affixed easily and quickly;

(3) Be capable of being checked readily and identified by unique marks (such as a logotype) and numbers;

(4) Not permit removal or undoing without breaking, or tampering without leaving traces;

(5) Not permit use more than once; and

(6) Be made as difficult as possible to copy or counterfeit.

(b) *Seal specifications.*

(1) The shape and size of the seal shall be such that any identifying marks are readily legible.

(2) Each eyelet in a seal shall be of a size corresponding to that of the fastening used, and shall be positioned so that the fastening will be held firmly in place when the seal is closed.

(3) The material used shall be sufficiently strong to prevent accidental breakage, early deterioration (due to weather conditions, chemical action, etc.) or undetectable tampering under normal usage.

(4) The material used shall be selected with reference to the sealing system used.

(c) *Fastening specifications.*

(1) The fastening shall be strong and durable and resistant to weather and corrosion.

(2) The length of the fastening used shall not enable a sealed aperture to be opened or partly opened without the seal or fastening being broken or otherwise showing obvious damage.

(3) The material used shall be selected with reference to the sealing system used.

(d) *Identification marks.*

(1) If the seal is to be purchased and used by U.S. Customs, the seal or fastening, as appropriate, shall be marked to show that it is a U.S. Customs seal by application of the words "U.S. Customs" and a unique identification number on the seal.

(2) If the seal is to be used by private industry (i.e., a shipper, manufacturer, or carrier), it must be clearly and legibly marked with a unique company name or (logotype) and identification number.

(e) *Customs acceptance.* Seals will be considered as acceptable for use and/or purchase by U.S. Customs as soon as the manufacturer attests that the seals have been tested and meet or

exceed the standards provided in paragraphs (a) through (d) of this section, and will continue to be considered acceptable until such time as it is demonstrated that they do not meet the standards. A manufacturer may attest to the qualification of a specific seal, or to an entire product line of seals as of a certain date. Any addition of a seal to a group of seals attested to as a group would require specific acceptance of that seal by Customs.

(f) *Testing.* All testing of seals deemed necessary before Customs acceptance will be done by the manufacturer or by a private laboratory, and not by Customs. However, Customs reserves the right to test, or to have tested, seals that have been accepted by Customs.

(g) *Records.* The manufacturer's attestation that a seal meets or exceeds the standards specified in this section and, if deemed necessary by Customs, the seal test record shall be sent to the Director, Office of Inspection, Cargo Processing Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington D.C. 20229. (R.S. 251, as amended, secs. 552, 553, 46 Stat. 742, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1552, 1553, 1624)).

WILLIAM T. ARCHY,

Acting Commissioner of Customs.

Approved: May 27, 1981.

JOHN P. SIMPSON,

Acting Assistant Secretary of the Treasury.

[Published in the Federal Register July 16, 1981 (46 F.R. 36841)]

(T.D. 81-186)

Bonds

Approval and discontinuance of consolidated aircraft bonds (air carrier blanket bonds), Customs Form 7605.

The following consolidated aircraft bonds have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: July 13, 1981.

Name of principal and surety	Date term commence	Date of approval	Filed with district director/area director/amount
Republic Airlines, Inc., 7500 Airline Dr., Minneapolis, MN; Aetna Casualty & Surety Co.	July 1, 1981	May 7, 1981	Minneapolis, MN \$100,000
Republic Airlines West, Inc., 7500 Airline Dr., Minneapolis, MN; Aetna Casualty & Surety Co. (PB 10/1/80) D 6/20/81 ¹	July 1, 1981	May 7, 1981	Minneapolis, MN \$100,000
United Air Lines, Inc., P.O. Box 66100, Chicago, IL; Federal Ins. Co. (PB 7/10/81) D 6/26/81 ²	Apr. 29, 1981	June 26, 1981	Chicago, IL \$100,000

¹ Surety is Safeco Ins. Co. of America.

² Principal is United Air Lines.

The foregoing principals have been designated as carriers of bonded merchandise.

BON-3-01

GEORGE C. STEUART,
(For Marilyn G. Morrison, Director,
Carriers, Drawback and Bonds Division).

T.D. 81-187

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to Section 522(C), Tariff Act of 1930, as amended (31 USC 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 81-82 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Austria schilling:

June 22, 1981.....	\$0. 059835
June 23, 1981.....	. 059997
June 24, 1981.....	. 059737
June 25, 1981.....	. 059524
June 26, 1981.....	. 058997

Belgium franc:

June 22, 1981.....	\$0. 025826
June 23, 1981.....	. 025934
June 24, 1981.....	. 025800
June 25, 1981.....	. 025589
June 26, 1981.....	. 025543

Brazil cruziero:

June 22-24, 1981.....	\$0. 011151
June 25-26, 1981.....	. 010941

Peoples Republic of China yuan:

June 22, 1981.....	\$0. 568214
June 23-26, 1981.....	. 571070

Denmark krone:

June 22, 1981.....	\$0. 134318
June 23, 1981.....	. 135017
June 24, 1981.....	. 134273
June 25, 1981.....	. 133467
June 26, 1981.....	. 133422

Finland markka:

June 22, 1981.....	\$0. 225963
June 23, 1981.....	. 227247
June 24, 1981.....	. 226963
June 25, 1981.....	. 225530
June 26, 1981.....	. 224568

France franc:

June 22, 1981.....	\$0. 177730
June 23, 1981.....	. 176476
June 24, 1981.....	. 176211
June 25, 1981.....	. 174886
June 26, 1981.....	. 174978

Germany deutsches mark:

June 22, 1981.....	\$0. 423191
June 23, 1981.....	. 424538
June 24, 1981.....	. 421941
June 25, 1981.....	. 417973
June 26, 1981.....	. 418760

Ireland pound:

June 22, 1981.....	\$1. 5440
June 23, 1981.....	1. 5525
June 24, 1981.....	1. 5440
June 25, 1981.....	1. 5265
June 26, 1981.....	1. 5295

Italy lira:

June 22, 1981.....	\$0. 000848
June 23, 1981.....	. 000850
June 24, 1981.....	. 000847
June 25-26, 1981.....	. 000840

Japan yen:

June 22-24, 1981.....	Quarterly
June 25, 1981.....	\$0. 004436
June 26, 1981.....	. 004447

Netherlands guilder:

June 22, 1981.....	\$0. 380228
June 23, 1981.....	. 382117
June 24, 1981.....	. 379651
June 25, 1981.....	. 376081
June 26, 1981.....	. 376790

New Zealand dollar:

June 22, 1981.....	\$0. 8600
June 23, 1981.....	. 8625
June 24, 1981.....	. 8608
June 25, 1981.....	. 8565
June 26, 1981.....	. 8540

Norway krone:

June 22, 1981.....	\$0. 169147
June 23, 1981.....	. 168990
June 24, 1981.....	. 168848
June 25, 1981.....	. 167574
June 26, 1981.....	. 166182

Portugal escudo:

June 22, 1981.....	\$0. 015898
June 23, 1981.....	. 015962
June 24, 1981.....	. 015911
June 25, 1981.....	. 015848
June 26, 1981.....	. 015711

Republic of South Africa rand:

June 22, 1981.....	\$1. 1497
June 23, 1981.....	1. 1527
June 24, 1981.....	1. 1500
June 25, 1981.....	1. 1418
June 26, 1981.....	1. 1370

Spain peseta:

June 22, 1981.....	\$0. 010610
June 23, 1981.....	. 010654
June 24, 1981.....	. 010574
June 25, 1981.....	. 010547
June 26, 1981.....	. 010444

Sweden krone:

June 22, 1981.....	\$0. 198906
June 23, 1981.....	. 199402
June 24, 1981.....	. 198708
June 25, 1981.....	. 197122
June 26, 1981.....	. 196850

Switzerland franc:

June 22, 1981.....	\$0. 486855
June 23, 1981.....	. 491642
June 24, 1981.....	. 490798
June 25, 1981.....	. 490436
June 26, 1981.....	. 493097

United Kingdom pound:

June 22, 1981.....	\$1. 9918
June 23, 1981.....	1. 9982
June 24, 1981.....	1. 9790
June 25, 1981.....	1. 9530
June 26, 1981.....	1. 9490

(LIQ-03-01 O : C : E)

Date: June 25, 1981.

KENNETH A. RICH,
Chief,
Customs Information Exchange.

Recent Unpublished Customs Service Decisions

The following listing of recent administrative decisions issued by the Office of Regulations and Rulings, U.S. Customs Service, and not otherwise published, is published for the information of Customs officers and the importing community. Although the decisions are not of sufficient general interest to warrant publication as Treasury Decisions, the listing describes the issues involved and is intended to aid Customs officers and concerned members of the public in identifying matters of interest which recently have been considered by the Office of Regulations and Rulings.

A copy of any decision included in this listing, identified by its date and file number, may be obtained in a form appropriate for public distribution upon written request to the Office of Regulations and Rulings, Attention: Legal Retrieval and Dissemination Branch, Room 2404, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229. These copies will be made available at a cost to the requester of \$0.10 per page. However, the Customs Service will waive this charge if the total number of pages copied is ten or less.

Decisions listed in earlier issues of the Customs Bulletin, through February 2, 1981 are available in microfiche format at a cost of \$30.90** (\$0.15 per sheet of fiche). It is anticipated that additions to the microfiche will be made quarterly and subscriptions are available. Requests for the microfiche now available and for subscriptions should be directed to the Legal Retrieval and Dissemination Branch. Subscribers will automatically receive updates as they are issued and will be billed accordingly.

Dated: July 15, 1981.

B. JAMES FRITZ,
Director,
Regulations Control and Disclosure Law Division.

Date of decision	Number	Issue
5-29-81	065412	Classification: moon boots (700.56, 700.57, 700.58)
6- 5-81	065700	Classification: filter dryers used with mechanical refrigeration systems (661.20, 661.95)

Date of decision	Number	Issue
5-29-81	065766	Classification: automatic record cleaner (389.50)
6- 5-81	065808	Classification: linch pin used with a three point hitch attachment on a tractor (666.00)
5-28-81	065826	Classification: scale model clapboard siding (737.95)
6- 2-81	066391	Classification: country of origin: two piece and three piece suits
6- 5-81	066562	Classification: bulk feed and grain trailers (692.03, 692.32)
6- 2-81	066725	Classification: steel plates used in the assembly of land leveling equipment (664.08, 666.00)
6- 2-81	066890	Classification: end caps and cone backing rings (690.25, 690.35)
6- 2-81	066974	Classification: rotary screens (668.50)
5-29-81	066983	Classification: auxiliary lamp for night driving (653.39, 692.32)
6- 2-81	068018	Classification: dyed, stretched nylon yarn (310.02, 310.11)
6-10-81	068048	Classification: moon boot shells (700.60)
6- 2-81	068053	Classification: musical juggling Santa (725.50, 737.80)
6- 5-81	068170	Classification: diesel fuel (475.05, 475.10)
6-30-81	068293	Classification: miniature revolver, jewelry attachments, blank ammunition (730.15, 730.17, 730.19, 730.81, 730.91, 740.30, 740.38, 774.55)
6- 9-81	068312	Classification: toy figures known as "Jolly Beans" (737.40, 737.95)
6-18-81	068367	Classification: moon boot shells (700.60)
6-16-81	068376	Classification: moon boot shells (700.60)
5-29-81	068378	Classification: women's casual shoe (700.60)
5-27-81	068385	Classification: women's high wedge, open toe and open back casual shoe (700.60)
5-18-81	068473	Classification: khaki woven cotton safari jacket and military-style woven cotton shirt (380.09, 380.27, 380.12)
6- 2-81	068475	Classification: stretch cords (389.62)
6-25-81	068509	Classification: UFO toy spinning top (682.95)
5-29-81	068516	Classification: catalytic waste containing metallic platinum (605.70, 793.00)
6- 4-81	105055	Vessels: application of coastwise laws to the operation of a foreign mobile drilling platform on the U.S. Continental Shelf
6-19-81	105096	Vessels: fish nets imported into the U.S. for placement on vessels other than the importing vessel are subject to entry as importation of merchandise, 19 U.S.C. 1202, rather than as equipment purchased under 19 U.S.C. 1466
6-12-81	105120	Instruments of International Traffic: bobbins, a/k/a wrapper rolls used to transport die cuts of wrapper tobacco are instruments of international traffic pursuant to 19 U.S.C. 1322(a)

Date of decision	Number	Issue
6-19-81	105153	Vessels: specifications which qualify a tug as a special purpose vessel pursuant to 19 U.S.C. 1466(e)
6-16-81	105163	Vessels: transfer of a fishing net under lease to a Canadian vessel together with two crewmen to accompany the net as advisors for its use does not constitute a violation of the coastwise laws, 46 U.S.C. 289, 46 U.S.C. 883
6-11-81	105180	Vessels: transportation of merchandise in a foreign-flag vessel between the U.S. and Guam would violate 46 U.S.C. 883 unless issued a restricted register, pursuant to 46 U.S.C. 11, qualifying the foreign-flag vessel to engage in trade with Guam
6-17-81	105196	Vessels: reporting requirements and dutiable status of a yacht owned by an alien residing in the United States who is also the spouse of a U.S. citizen residing abroad
3-17-81	800321	Classification: high speed, dedicated data processor (676.15, 676.30, 722.12)
4- 1-81	800309	Classification: tractor (692.34)
4- 2-81	800315	Classification: diesel engine tractor (692.34)
4-14-81	800378	Classification: brass candleholders, wall hooks, shoe horns and picture frames (651.49, 652.70, 653.35, 654.03)
4- 2-81	800383	Classification: toy drawing and writing slates (737.95)
6- 4-81	800395	Classification: rubber soled soccer shoes (700.60, 700.67)
4-29-81	800399	Classification: tractor chassis (692.34)
4-20-81	800433	Classification: subscriber traffic generator (688.45, 864.30)
4-21-81	800441	Classification: feed force monitoring system/automatic gauging and tool wear compensation system (674.50, 674.55, 712.49)
4-21-81	800464	Classification: Complex NTC 304—Lipophase, Hydrophase (432.25, 465.10, 799.00)
5-15-81	800476	Classification: bulk-packed medicated chewing gum (411.56)
5-29-81	800540	Classification: polypropylene strips (309.20, 774.55)
5-20-81	800552	Classification: Gamlen K-19 Concentrate (430.20)
5-18-81	800565	Classification: upholstery pigskin leather (121.50)
5-22-81	800593	Classification: tractors (692.34)
5-15-81	800597	Classification: wire rope making machinery (664.10, 670.90)
5-26-81	800600	Classification: men's and women's cotton knit shirts (380.06, 382.06)
5-22-81	800602	Classification: CRT display monitor & electric piano component (676.15, 685.19, 725.47)
5-29-81	800604	Classification: copper strip in coils and tin-bearing copper strip in coils (612.31, 612.44, 612.45)
5-11-81	800608	Classification: toy feet (737.95)

Date of decision	Number	Issue
5-26-81	800609	Classification: machines used in the manufacture of printed circuit boards (661.68, 662.50, 674.35, 678.50)
5-15-81	800610	Classification: stretch loops (389.70)
5-20-81	800611	Classification: triangular dinner gong, electric tea kettle & stainless steel tongue cleaner (652.60, 684.20)
5-22-81	800612	Classification: tractor (692.34)
5-22-81	800613	Classification: tractor (692.34)
5-19-81	800615	Classification: hand-carved gourds (748.32)
5-29-81	800617	Classification: food coloring: FD and C Yellow No. 5 (409.66)
5-29-81	800623	Classification: disc mowers (666.00)
6- 3-81	800632	Classification: quilted nylon taffeta ski mitten (734.97, 735.06)
6- 9-81	800636	Classification: incomplete rectangular plastic chicken laying and rearing cage (666.00)
5-22-81	800637	Classification: chain saw head (674.42)
5-15-81	800638	Classification: witch doll cake decoration (737.22)
5-15-81	800645	Classification: 6-Tertiary-Butyl-2, 4-Xylenol, a phenol (403.51)
6- 1-81	800647	Classification: ladies sweaters (382.78)
5-20-81	800657	Classification: compression nut (646.42)
5-22-81	800660	Classification: channel nut (646.56, 923.52)
5-26-81	800662	Classification: monochrome cathode ray tube (676.52)
5-29-81	800665	Classification: long-sleeved cotton knit pullover shirt with zipper opening at neck (382.00)
5-20-81	800667	Classification: grounding clamps (657.35)
6- 8-81	800670	Classification: game (734.20)
6- 8-81	800676	Classification: solar heater collectors (661.65)
6- 5-81	800860	Classification: lace motifs and textile articles (351.80, 389.62)
6- 1-81	800681	Classification: wood picture holder and bread knife (206.60, 650.21)
6- 1-81	800683	Classification: polyester fabric (338.30)
5-21-81	800684	Classification: air purifier (661.95)
6- 1-81	800686	Classification: ladies sweater (382.04)
6- 3-81	800688	Classification: man's sport shirt (380.84)
6- 1-81	800692	Classification: fiberglass auto parts (770.10)
5-22-81	800695	Classification: reactor-process vessel (661.68)
6- 5-81	800703	Classification: cotton knit panties (378.15)
6- 4-81	800709	Classification: tractors (692.34)
6- 1-81	800711	Classification: man's woven cotton western shirt (380.27)
6- 3-81	800714	Classification: polyethylene resin pellets (445.30)
6- 4-81	800715	Classification: guayabera style men's sport shirt (380.04)
6- 1-81	800718	Classification: wooden tables and chairs (727.25, 727.29, 727.35)
6- 5-81	800722	Classification: cotton hot pads (366.79)

Date of decision	Number	Issue
6- 1-81	800731	Classification: semi-finished tufted floor coverings (360.70)
6- 8-81	800751	Classification: propane tanks (693.32)
6- 4-81	800752	Classification: floor standing simple modular system: furniture (727.35)
6- 5-81	800762	Classification: leather and cotton work gloves (705.35, 705.48)
6- 8-81	800779	Classification: printed matter (274.75)

United States Court of International Trade

One Federal Plaza
New York, N.Y. 10007

Chief Judge

Edward D. Re

Judges

Paul P. Rao
Morgan Ford
Scovel Richardson
Fredrick Landis

James L. Watson
Herbert N. Maletz
Bernard Newman
Nils A. Boe

Senior Judge

Samuel M. Rosenstein

Clerk

Joseph E. Lombardi

Decision of the United States Court of International Trade

(Slip Op. 81-57)

SCM CORPORATION, PLAINTIFF v. UNITED STATES, DEFENDANT

BROTHER INTERNATIONAL CORPORATION, PARTY-IN-INTEREST

Court No. 77-4-00553

Memorandum and Order

(Dated July 1, 1981)

NEWMAN, *Judge*: Plaintiff ("SCM")—a domestic portable type-writer manufacturer—challenges, pursuant to 19 U.S.C. § 1516(c)

(1976), the negative antidumping injury determination made on June 19, 1975 by the United States International Trade Commission ("Commission") in the case of *Portable Electric Typewriters From Japan*, U.S.I.T.C. Public 732, Investigation No. AA1921-145 (40 FR 27079 (1975)). Brother International Corporation ("Brother")—an importer of portable electric typewriters ("PETs") from Japan and the consignee of New York, N.Y. Consumption Entry No. 77-302804, the immediate subject of the instant action—appears as the party-in-interest pursuant to 19 U.S.C. § 1516(f).

Presently before me are: plaintiff's motion for judgment directing the Secretary of Commerce to publish a finding of dumping covering PETs from Japan; defendant's cross-motions, in the alternative, to dismiss on the ground of mootness, to stay the instant proceedings pending final disposition of the issues involved in *Nakajima All Co., Ltd. v. United States*, Court No. 80-6-00933, and *Silver Reed America, Inc. v. United States*, Court No. 80-6-00934, or to remand the instant proceedings to the Commission for reconsideration of its negative injury determination upon the basis of the record in the instant matter supplemented by the record in *Portable Electric Typewriters From Japan*, Investigation No. 731-TA-12, 45 FR 30186 (1980), a subsequent injury investigation involving PETs from Japan wherein the Commission made an affirmative determination; and also a cross-motion of the party-in-interest for summary judgment (which is a renewal of a prior cross-motion).¹

I

The pertinent history of this litigation follows:²

In its Investigation No. AA1921-145, the Commission determined, by a three to two vote with one abstention, that an industry in the United States is not being or likely to be injured or prevented from being established by reason of PETs from Japan sold at less than fair value ("LTFV") within the meaning of the Antidumping Act, as amended (19 U.S.C. § 160 *et seq.* (1970) & Supp. V 1975).³

Although the imported articles found to be sold at LTFV by Treasury⁴ and covered by the Commission's notice of investigation

¹ The parties have filed twelve briefs relating to the motion and cross-motions presently before me, the latest of which was submitted on March 16, 1981.

² For a more complete history of this action see 80 Cust. Ct. 226, C.R.D. 78-2, 450 F. Supp. 1178 (1978) and 84 Cust. Ct. —, C.R.D. 80-2, 487 F. Supp. 98 (1980). See also 79 Cust. Ct. 163, C.R.D. 77-6, 435 F. Supp. 1224 (1977), denying plaintiff's motion for assignment of this case to a three judge panel.

³ Chairman Leonard and Commissioners Bedell and Parker determined in the negative, while Commissioners Moore and Ablondi determined in the affirmative, Vice-Chairman Minchew abstained from voting.

⁴ The authority for administering the antidumping law was transferred from the Secretary of the Treasury to the Secretary of Commerce, effective January 2, 1980. *Reorganization Plan No. 5 of 1979*, 44 FR 69273 (1979); *Exec. Order 12188*, 45 FR 989 (1980).

were PETs, for purposes of identifying "what is the industry most likely to be affected" by the imported articles, the majority considered, alternatively, the facilities devoted to the production of all portable typewriters (both electric and manual) or the facilities devoted to the production only of PETs. The majority found that in either instance the affected domestic industry was SCM, the sole United States producer of portable typewriters, both electric and manual.

While acknowledging that imports of PETs from Japan sold at LTFV had obtained a significant share of the United States market for portable typewriters during the period of the Treasury Investigation (October 1973 through March 1974), the majority concluded that "imports penetration alone is not an adequate basis for determining injury" (40 FR 27080). Chairman Leonard considered "that import penetration indicates injury only when it is established that the penetration is at the expense of the domestic industry and causes lost sales" (40 FR 27080, fn. 2) (Emphasis added). Implicitly, therefore, Chairman Leonard found there were no lost sales. However, the majority's Statement of Reasons reveals no specific finding concerning lost sales. The dissenting Commissioners, on the other hand, found that SCM "has clearly lost a considerable share of the market and consequently lost considerable sales" (40 FR 27081) (emphasis added).

The majority further found that, other than market penetration, none of the tests of injury applied in this case showed that an industry in the United States is being or is likely to be injured. The other tests indicated that the domestic industry had prospered, and was likely to continue to grow and expand notwithstanding the fact that it did not produce certain types of low end PETs.

In February 1979, plaintiff filed a motion for summary judgment contending that several aspects of the Commission's negative injury determination were erroneous as a matter of law, and that an affirmative injury determination should have been made. Thereupon, defendant and the party-in-interest filed cross-motions for summary judgment.

On March 7, 1980 Chief Judge Re issued an opinion, finding certain deficiencies in the majority's Statement of Reasons for the determination under review. *SCM Corporation v. United States (Brother International Corporation, Party-in-Interest)*, 84 Cust. Ct. —, C.R.D. 80-2, 487 F. Supp. 96 (1980). Chief Judge Re stated, *inter alia*:

Congress has not only directed the ITC to state its determinations but has also required the agency to *explain* those determinations. The statutory requirements of "a statement

of reasons," imposed by the 1958 amendments to the Anti-dumping Act, and the "complete statement of findings and conclusions" imposed by the Trade Act of 1974, are clearly consistent with applicable decisional law. For the ITC these requirements are specifically mandated by the pertinent statutory provisions.

The ITC determination in this case nominally includes the majority's "Statement of Reasons." In substance, however, the statements are really mixed conclusions of ultimate facts and statutory interpretation, rather than reasons. The ITC has stated the conclusions which presumably are the result of its reasoning, but it has neither supplied nor articulated the reasons which support those conclusions.

An illustration is the conclusion that significant market penetration alone is not an adequate basis for determining injury. This is a major policy determination with broad and significant implications in the interpretation and administration of the antidumping law. Clearly, Congress intended the ITC to develop and refine the very general concept of injury as it is applied to individual cases. This responsibility is not adequately discharged in a case in which the ITC determination is neither clearer nor more specific than the statutory language itself.

When the ITC fails to delineate and make explicit the basis for the conclusions, by articulating a rational connection between the facts found and the discretionary action taken, the court cannot decide, as it must, whether the ITC has exercised a reasoned discretion consistent with legislative intent.

In order for the court to perform its function of judicial review, this proceeding is stayed, and the ITC will be afforded an additional opportunity to supply this court with the reasons supporting its conclusions * * *. [487 F. Supp. at 108.] [Emphasis added.]

Thus, the Court in essence did not grant or deny the motion or cross-motions for summary judgment. Rather, such motions were held in abeyance and the following direction was issued:

it is ordered that this proceeding be stayed for such necessary time, not to exceed 90 days, as the ITC may require to supply the court with a more specific and explicit statement of reasons for the conclusions that: (1) The affected "industry" was limited to, alternatively, the facilities devoted to the production of all portable typewriters, or, the production of portable electric typewriters; and (2) significant market penetration by less than fair value imports alone is not an adequate basis for determining injury. [*id.*]

II

While this action was pending, plaintiff filed a petition on April 9, 1979 for the initiation of a second antidumping proceeding covering PETs from Japan containing updated information. Subsequently,

on March 18, 1980 the Secretary of Commerce issued an affirmative determination of sales at LTFV in that proceeding (45 FR 18416 (1980)); on May 7, 1980 the Commission announced an affirmative injury determination in the case of *Portable Electric Typewriters From Japan*, U.S.I.T.C. Public 1062, Investigation No. 731-TA-12, 45 FR 30186 (1980); and on May 9, 1980 the Secretary of Commerce published an antidumping duty order (45 FR 30618 (1980)).

III

Consequently, we are faced with the following scenario:

In its first PET investigation, the Commission on June 19, 1975 made a negative injury determination;

On March 7, 1980 Chief Judge Re remanded this action to the Commission to "supply the Court with a more specific and explicit statement of reasons";

On May 7, 1980 in its second PET investigation (relative to the second petition) the Commission announced an affirmative injury determination, and an antidumping order followed on May 9, 1980;

On June 5, 1980 defendant moved to dismiss the instant action on the ground that it was rendered moot by the antidumping duty order issued on May 9, 1980. Alternatively, defendant moved for an extension of time within which the Commission could comply with the remand order in C.R.D. 80-2;

On July 10, 1980 plaintiff filed a memorandum in opposition to defendant's motion to dismiss, arguing that the case was not moot for two reasons: (a) the new antidumping duty order on which defendant's mootness argument was based had been challenged in this Court by Japanese import-export interests, and as long as that order or any subsidiary determination is susceptible of being judicially overturned, the subject Court proceeding is not moot; (b) moreover, interested parties could in the future attempt to obtain reconsideration of the antidumping duty order on the basis of an alleged change of circumstances, and in such event, issues raised in the subject Court proceeding could once again become central to the determination which the Commission would necessarily make;

On October 2, 1980 Chief Judge Re entered an unpublished order which denied defendant's motion to dismiss on the ground of mootness, and granted the Commission 30 days from that date in which to comply with the remand order. That order of October 2, 1980 reassigned the present case to the writer.

In this setting, Chairman Alberger, writing for the Commission, mailed to me on or about October 31, 1980 an undated letter reading in pertinent part (at 2):

On October 1, 1980, Chief Judge Re denied the Commission's motion [to dismiss], transferred this case to Your Honor [the writer], and ordered that the Commission comply with the March 7 order within 30 days. With all due deference, the Commission is unable to provide the court with further explanation for the conclusions reached by the Commission majority in *Portable Electric Typewriters From Japan*, AA 1921-145, because only one of the three Commissioners composing the majority remains with the Commission.

The Commission is a decision-making body which must vote on a determination of injury or non-injury. Those Commissioners agreeing on a determination must together write the opinion expressing the reasons for reaching that determination. It would be impossible for the remaining member of the majority to provide an accurate response to the Court's request without the input of the two former Commissioners.

Again, I regret that circumstances are such that the Commission is unable to provide further explanation for the conclusions reached by the Commission majority in *Portable Electric Typewriters From Japan*, AA 1921-145.

IV

Chairman Alberger's letter, albeit courteous, nonetheless advances an untenable reason for the Commission's failure to comply with the Court's remand order.

As indicated *supra*, plaintiff's motion for summary judgment dated February 13, 1979 and the cross-motions by defendant and the party-in-interest were neither granted nor denied when, in C.R.D. 80-2, the Court remanded the case to the Commission. As in its previous motion for summary judgment, plaintiff now moves for a judgment holding that the Commission erred as a matter of law in making a negative injury determination, and further, for a judgment directing the appropriate administrative official to publish a finding of dumping covering PETs from Japan.

Specifically, plaintiff contends that the Commission erred as a matter of law "in not reaching an affirmative injury determination in view of the finding of significant market penetration, particularly when that penetration was accomplished primarily by underselling the domestic product via LTFV pricing, and when that penetration resulted in a loss of sales by the domestic industry." Plaintiff additionally argues that the Commission erred as a matter of law: by making the health of the domestic industry a relevant consideration; by finding there was no price suppression; and by not defining the relevant domestic industry as plaintiff's facilities devoted to producing portable manual typewriters or low-end portable electric typewriters.

V

Defendant's contention that this action is moot, as previously noted, was considered and rejected by Chief Judge Re in denying defendant's motion to dismiss on October 2, 1980. That ruling will now be adhered to as the law of the case, and accordingly defendant's cross-motion to dismiss is denied.

VI

The negative injury determination was rendered and a single Statement of Reasons written by (then) Chairman Leonard, (then) Commissioner Parker, and Commissioner Bedell. By March 7, 1980, date of the remand order, Commissioner Bedell was the only member of the majority remaining on the Commission. The Commission has now taken the position (through Chairman Alberger in his letter to me) that since Commissioner Bedell is the only one of the three Commissioners who constituted the majority and who is still a member of the Commission, the present Commission cannot provide a "more specific and explicit statement of reasons," as required by the remand order. However, as may be observed from plaintiff's contentions, the questions raised in the remand order of March 7, 1980, concerning the affected domestic industry and market penetration, are central to a determination of whether the Commission's negative determination was correct.

VII

I find that the reasons submitted by the Commission for its inability to comply with the Court's remand order of March 7, 1980 are legally invalid. The party-in-interest agrees with this conclusion. Indeed, it is of course not uncommon for the personnel constituting a court panel or an administrative tribunal to change periodically. Clearly, the Commission, like this Court, is a continuing institution, regardless of changes in its membership. To comply with the Court's remand order, the present Commissioners could have and should have familiarized themselves with the record before them. If after doing so, they remained unable to provide any reasons for the matters raised in the remand order or if they were of the view that the conclusions questioned were incorrect, the Commission should have so advised the Court.

Defendant's contention, that the remand order was impossible to carry out because it required an explanation by each of the individual Commissioners comprising the majority, is entirely without merit. The remand order plainly required an institutional response

(by the Commission) rather than responses by each of the individual Commissioners participating in the majority's determination.

The short of the matter is that the contested determination was an institutional decision, and as such, can be explained or corrected on remand by the Commission, notwithstanding that the membership of the Commission has changed since the time the determination was originally reached. Hence, Chairman Alberger's response on behalf of the Commission, although undoubtedly written in good faith, provided a legally insufficient reason for the Commission's inability to comply with the Court's remand order.

Accordingly, it is ordered that this proceeding be stayed for such necessary time as the Commission may require, not to exceed 90 days:

a. To supply this Court with a more specific and explicit Statement of Reasons in compliance with the remand order entered by the Court on March 7, 1980;

b. In addition to the questions raised by the previous remand order, the Commission is directed—within the time specified—to reconsider and advise this Court whether there was price suppression, after comparing the wholesale price indexes for portable typewriters and office (electric) typewriters; or to supply this Court with specific reasons why such basis for comparison is inappropriate;

c. Finally, the Commission shall make and report to this Court a specific finding of fact respecting whether there were lost sales as a consequence of market penetration by the Japanese LTFV imports.

It is further ordered that all of defendant's alternative cross-motions are denied.

International Trade Commission Notices

Investigations by the U.S. International Trade Commission

DEPARTMENT OF THE TREASURY, JULY 16, 1981

The appended notices relating to investigations by the U.S. International Trade Commission are published for the information of Customs officers and others concerned.

WILLIAM T. ARCHEY,
Acting Commissioner of Customs.

In the Matter of CERTAIN AIRLESS PAINT SPRAY PUMPS AND COMPONENTS THEREOF	}	Investigation No. 337-TA-90
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Notice of Request for Additional Information

AGENCY: U.S. International Trade Commission.

ACTION: Commission request that parties provide information regarding interested nonparties.

SUMMARY: The Commission has ordered the parties to this investigation to submit a list containing the names and addresses of companies and/or persons not parties to this investigation who may have relevant information to present to the Commission concerning the issues of violation, public interest, and remedy, particularly those nonparties which may be on the verge of involvement in the importation of pumps alleged to infringe the patents in issue in this investigation.

AUTHORITY: The authority for the Commission's action is contained in subsection 337(b) of the Tariff Act of 1930 (19 U.S.C. § 1336(b)).

FOR FURTHER INFORMATION CONTACT: Scott Daniels, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0480.

By order of the Commission.

Issued: July 1, 1981.

KENNETH R. MASON,
Secretary.

731-TA-45, 46, and 47 (Preliminary)

CERTAIN STEEL WIRE NAILS FROM JAPAN, THE REPUBLIC OF KOREA,
AND YUGOSLAVIA

Notice of Institution of Preliminary Antidumping Investigations
and Scheduling of Conference

AGENCY: United States International Trade Commission.

ACTION: Institution of preliminary antidumping investigations.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of preliminary antidumping investigations to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan, the Republic of Korea, and Yugoslavia of steel wire nails, provided for in items 646.25 and 646.26 of the Tariff Schedules of the United States, possibly sold at less than fair value.

EFFECTIVE DATE: July 2, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Lynn Featherstone, Supervisory Investigator, telephone (202-523-0242), U.S. International Trade Commission, Room 346, 701 E Street, NW., Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On July 2, 1981, the Department of Commerce (hereinafter "Commerce") advised the Commission that Commerce was initiating antidumping investigations of steel wire nails from Japan, the Republic of Korea, and Yugoslavia pursuant to section 732(a) of the Tariff Act of 1930, (19 U.S.C. Section 1673a(a) (Supp. III 1979)). After monitoring imports of certain steel products under the Trigger

Price Mechanism, Commerce found significant sales of steel wire nails being made at less than the relevant trigger price. The sales constitute possible sales at less than fair value.

Accordingly, on July 2, 1981, the Commission, pursuant to section 733(a) of the Tariff Act of 1930, (19 U.S.C. Section 1673b(a) (Supp. III 1979)), instituted preliminary antidumping investigations Nos. 731-TA-45, 46, and 47 (Preliminary).

Section 733(a) of the Tariff Act of 1930 requires the Commission to make a determination of whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports possibly sold in the United States at less than fair value. Such a determination must be made within 45 days after the date on which notice of an investigation commenced under section 732(a) is received from the Department of Commerce. These investigations will be subject to the provisions of the Commission's Rules of Practice and Procedure (19 CFR Section 201.00, *et seq.*) and, particularly, to part 207 thereof (19 CFR Section 207.1, *et seq.*).

WRITTEN SUBMISSIONS

Any person may submit to the Commission on or before July 30, 1981, a written statement of information pertinent to the subject matter of these investigations. A signed original and nineteen copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR Section 201.6). All written submissions, except for confidential business data, will be available for public inspection.

CONFERENCE

The Director of Operations of the Commission has scheduled a conference in connection with the investigations for 10 a.m., e.d.t., on July 23, 1981, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Persons wishing to participate in the conference should contact the supervisory investigator for the investigations, Mr. Lynn Featherstone (202-523-0242) by the close of business (5:15 p.m., e.d.t.), July 22, 1981. It is anticipated that persons in support of the imposition of antidumping duties and persons opposed to such duties will each be collectively

allocated 1 hour within which to make an oral presentation at the conference. Further details concerning the conduct of the conference will be provided by the supervisory investigator.

Issued: July 2, 1981.

KENNETH R. MASON,
Secretary.

In the matter of CERTAIN APPARATUS FOR THE CONTINUOUS PRODUCTION OF COPPER ROD	}	Investigation No. 337-TA-89
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Notice of Approval of Settlement Agreements

ACTION: Approval of settlement agreements.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has approved the settlement agreements entered into by Southwire Company and Fried. Krupp GmbH and Krupp International, Inc. on April 10, 1981.

SUPPLEMENTARY INFORMATION: As a result of a complaint filed by Southwire Company on July 29, 1980, and amended on August 1, 1980, and August 5, 1980, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) the Commission instituted an investigation to determine whether section 337 is being violated by reason of infringement of U.S. Letters Patent 4,129,170. A notice of investigation was published in the Federal Register on August 13, 1980 (45 F.R. 53923).

On April 21, 1981, Krupp G.m.b.H., Krupp International Inc., Southwire Co., and the Commission investigative attorney filed a joint motion for an order approving the settlement agreements entered into by Southwire and Krupp on April 10, 1981. The Commission sought comments on the proposed settlement agreements through notice published in the Federal Register on May 15, 1981 (46 F.R. 26943). No comments were received in response to that notice. On July 2, 1981, the Commission approved the settlement agreements.

Copies of the Commission's Action and Order and all non-confidential documents in the record of this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Jeffrey S. Neeley, Esq., Office of the General Counsel, U.S. International Trade Com-

mission, 701 E Street NW., Washington, D.C. 20436, telephone (202) 523-0359.

By order of the Commission.

Issued: July 6, 1981.

KENNETH R. MASON,
Secretary.

In the Matter of
CERTAIN ULTRAFILTRATION
MEMBRANE SYSTEMS AND
COMPONENTS THEREOF,
INCLUDING ULTRAFILTRATION
MEMBRANES

} Investigation No. 337-TA-107

Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on May 19, 1981, and was amended on June 10, 1981, and July 1, 1981, under section 337 of the Tariff Act 1930 (19 U.S.C. 1337), on behalf of Amicon Corporation at 25 Hartwell Avenue, Lexington, Mass. 02173, Romicon, Inc. and Comex, Inc., both at 100 Cummings Park, Woburn, Mass. 01801. The amended complaint (hereinafter the complaint) alleges unfair methods of competition and unfair acts in the importation of certain ultrafiltration membrane systems and components thereof including ultrafiltration membranes, into the United States, or in their sale, by reason of the alleged infringement by said ultrafiltration membranes of claims 1, 2, 3, 5, and 6 of U.S. Letters Patent 3,615,024, and by reason of the alleged contributory and induced infringement by said ultrafiltration membrane systems and components thereof, including ultrafiltration membranes, of claims 1, 2, 3, 5, 6, 7, and 8 of U.S. Letters Patent 3,526,588, and all of the claims of U.S. Letters Patent 3,541,005. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry efficiently and economically operated, in the United States.

The complainants request that, during the pendency of the investigation, the Commission issue both a temporary exclusion order, prohibiting importation of said articles into the United States except under bond and a temporary cease and desist order, and,

after a full investigation, issue both an exclusion order, prohibiting importation of said articles into the United States for the lives of the patents in issue, and a cease and desist order.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in section 210.12 of the Commission's Rules of Practice and Procedure.

SCOPE OF THE INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on July 2, 1981, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is reason to believe that there is a violation and whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain ultrafiltration membrane systems and components thereof, including ultrafiltration membranes, into the United States, or in their sale, by reason of the alleged infringement by said ultrafiltration membranes of claims 1, 2, 3, 5, or 6 of U.S. Letters Patent 3,615,024, or by reason of the alleged contributory and induced infringement by said ultrafiltration membrane systems and components thereof, including ultrafiltration membranes, of claims 1, 2, 3, 5, 6, 7, or 8 of U.S. Letters Patent 3,526,588, or any one or all of the claims of U.S. Letters Patent 3,541,005, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) For the purpose of this investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are—

Romicon, Inc.
100 Cummings Park
Woburn, Mass. 01801

Comex, Inc.
100 Cummings Park
Woburn, Mass. 01801

Amicon Corp.
25 Hartwell Avenue
Lexington, Mass. 02173

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Aktieselskabet De Danske Sukkerfabrikker (DDS)
Postboks 119
DK-4900 Nakskov, Denmark

Niro Atomizer, Inc.
9165 Rumsey Rd.
Columbia, Md. 21045

General Dairy Equipment
434 Stinson Boulevard
Minneapolis, Minn. 55413

(c) Robert S. Budoff, Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to sections 201.16(d) and 210.21(b) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Robert S. Budoff, Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202-523-0113.

By order of the Commission.

Issued: July 6, 1981.

KENNETH R. MASON,
Secretary

In the Matter of
CERTAIN HIGH-VOLTAGE CIRCUIT
INTERRUPTERS AND COMPO-
NENTS THEREOF

} Investigation No. 337-TA-64

AGENCY: U.S. International Trade Commission.

ACTION: Termination of investigation.

AUTHORITY: 19 U.S.C. 1337; 19 CFR 210.51.

SUPPLEMENTARY INFORMATION: On April 22, 1981, Westinghouse Electric Corp. (Westinghouse), complainant in this investigation, filed a motion to terminate the investigation. The investigation has been suspended since October 4, 1979, pending the outcome of a reissue proceeding in the Patent and Trademark Office (PTO) involving U.S. Letters Patent 3,291,947 (the '947 patent), the patent which is the subject of the investigation. The reissue application was rejected by the PTO because it found the claims of the patent invalid after examining newly discovered prior art. That decision was affirmed by the U.S. Court of Customs and Patent Appeals.

Westinghouse now intends to file a continuation application of the rejected reissue application. Westinghouse filed the motion to terminate because the '947 patent is scheduled to expire on December 13, 1983. Westinghouse claims that so much of the time remaining before the expiration of the '947 patent will be taken by the continuation application process and completion of the Commission investigation that any relief granted by the Commission will be rendered ineffective.

The parties responding to Westinghouse's motion to terminate have indicated agreement with termination of the investigation with prejudice, as has Westinghouse. Since the investigation has been suspended since October 4, 1981, this motion was not considered by the administrative law judge and, therefore, no recommended determination has been filed.

On July 6, 1981, the Commission voted to terminate investigation No. 337-TA-64 with prejudice. Termination of the investigation was based on the motion of the complainant and concurrence of other parties to the investigation.

Any party wishing to petition for reconsideration of the Commission's action must do so within fourteen (14) days of service of the Commission order. Such petitions must be in accord with Commission rule 210.56 (19 CFR § 210.56).

Copies of the Commission's action and order and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m.

to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-1641.

By order of the Commission.

Issued: July 7, 1981.

KENNETH R. MASON,
Secretary.

In the Matter of
CERTAIN WET MOTOR CIRCULATING
PUMPS AND COMPONENTS
THEREOF

Investigation No. 337-TA-94

*Notice of Grant of Leave To Review Orders Nos. 13 and 15 and of
Affirmance of Orders Nos. 13 and 15*

AGENCY: U.S. International Trade Commission.

ACTION: Grant of application for review of Orders No. 13 and 15 and affirmance of Orders No. 13 and 15.

SUMMARY: Notice is hereby given that on the basis of an application for review of Orders No. 13 and 15 filed by parties respondent Grundfos A.S. and Grundfos Pumps Corp. (Motion 94-22) the Commission has granted the application for review and affirmed the presiding officer's denial of Motion No. 94-9 but for reasons different than those given in Orders No. 13 and 15.

AUTHORITY: The authority for the Commission's action is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) and in section 210.60(b) (19 CFR § 210.60(b)) of the Commission's *Rules of Practice and Procedure*.

SUPPLEMENTARY INFORMATION: Upon receipt of a complaint filed by Taco, Inc., the Commission instituted investigation No. 337-TA-94 on December 31, 1980, to determine whether there is a violation of section 337 of the Tariff Act of 1930 by reason of importation into and sale in the United States of certain wet motor circulating pumps and components thereof. Complainant Taco alleges that the accused wet motor circulating pumps infringe claims 1, 2, 3, 6, 8, 15, 19, and 20 of U.S. Letters Patent 3,264,653 and that

respondents have misappropriated Taco's trade secrets. Notice of the Commission's investigation was published in the Federal Register on December 31, 1980, 45 F.R. 86564.

Respondents Grundfos A.S. and Grundfos Pumps Corp. moved on April 17, 1981, for a protective order to limit discovery on individuals who are directors, officers or employees of respondent companies to knowledge they have gained or possess as directors, officers or employees of the named respondent companies and not from any other company which they might serve. The presiding officer denied the motion (Orders No. 13 and 15), but granted respondent's leave to file an interlocutory appeal with the Commission.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-1693.

By order of the Commission.

Issued: July 8, 1981.

KENNETH R. MASON,
Secretary.

Investigation No. 104-TAA-4

STEEL UNITS FOR ELECTRICAL TRANSMISSION TOWERS FROM ITALY

AGENCY: United States International Trade Commission.

ACTION: Institution of a countervailing duty investigation.

SUMMARY: On April 21, 1967, the U.S. Department of the Treasury (Treasury) published in the Federal Register (32 F.R. 6274) a notice of final countervailing duty determination and suspension of liquidation of duties stating that it had determined that exports from Italy of galvanized fabricated structural steel units for the erection of electrical transmission towers benefited from bounties or grants within the meaning of section 303 of the Tariff Act of 1930. Accordingly, imports into the United States of such merchandise from Italy were subject to countervailing duties.

On January 1, 1980, the provisions of the Trade Agreements Act of 1979 became effective, and on January 2, 1980, the authority for administering the countervailing duty statute was transferred from Treasury to the U.S. Department of Commerce (Commerce). On May 13, 1980, Commerce published a notice in the Federal Register (44 F.R. 31455) of intent to conduct an annual administrative review of all outstanding countervailing duty orders.

On March 27, 1980, the U.S. International Trade Commission received a request from counsel for Societa Anonima Elettificazione S.p.A, Milano, Italy, for an investigation under section 104(b)(1) of the Trade Agreements Act of 1979 with respect to steel units for electrical transmission towers from Italy. A request for such an investigation was also received from the Delegation of the Commission of the European Communities on March 28, 1980. In accordance with section 104(b)(3) of the act, the Commission notified the Department of Commerce of its receipt of a request for an investigation.

As required by section 751(a)(1) of the Tariff Act of 1930, Commerce has conducted its first annual administrative review of the countervailing duty order on U.S. imports from Italy of galvanized fabricated structural steel units for the erection of electrical transmission towers. As a result, Commerce, in the Federal Register of April 28, 1981 (46 F.R. 23782), preliminarily determined that the net subsidy conferred on such merchandise is 18 lire per kilogram. On the basis of that determination, the United States International Trade Commission, pursuant to section 104(b)(2) of the Trade Agreements Act of 1979, is instituting an investigation to determine whether an industry in the United States would be materially injured, would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports from Italy of the merchandise covered by the countervailing duty order if the order were to be revoked. Galvanized fabricated structural steel units for the erection of electrical transmission towers are currently provided for under Tariff Schedules of the United States (TSUS) items 653.00, if imported complete or substantially complete; 652.94, if made up into a series of sections; or other items including but not necessarily limited to 609.84, 646.54, 646.65, 646.70, 646.72, 657.25 and 923.51, if imported as individual pieces.

Commerce reported that it would issue a final determination in this case after analysis of issues received in written comments or at a hearing. However, no hearing was requested and no written comments had been received by the deadline for their submission to Commerce, May 28, 1981. Commerce's final determination as to the most current level of subsidies will be made as soon as possible.

EFFECTIVE DATE: July 6, 1981.

FOR FURTHER INFORMATION CONTACT: Quay Williams, Office of Industries, (202-523-0341), Howard Gooley, Office of Economics, (202-523-1175), or Robert Eninger, Office of Investigations, (202-523-0312).

SUPPLEMENTARY INFORMATION:

PUBLIC HEARING

The Commission will hold a public hearing in connection with this investigation on October 7, 1981, in the Hearing Room of the U.S. International Trade Commission Building, beginning at 10 a.m., e.d.t. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m., e.d.t.) on October 2, 1981. All persons desiring to appear at the hearing and make oral presentations must file prehearing statements and should attend a prehearing conference to be held at 10 a.m., e.d.t., on September 30, 1981, in Room 117 of the U.S. International Trade Commission Building. Prehearing statements must be filed on or before September 30, 1981.

Testimony at the public hearing is governed by section 207.23 of the Commission's Rules of Practice and Procedure (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing statements and to new information. The Commission will not receive prepared testimony for the public hearing, as would otherwise be provided for by rule 201.12(d). All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing statements in accordance with rule 207.22. Posthearing briefs will also be accepted within a time specified at the hearing.

WRITTEN SUBMISSIONS

Any person may submit to the Commission on or before September 30, 1981, a written statement of information pertinent to the subject matter of this investigation. A signed original and nineteen true copies of such statements must be submitted in accordance with section 201.8 of the Commission's Rules of Practice and Procedure, 19 CFR section 201.8 (1980). All written submissions, except confidential business data, will be available for public inspection.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential business data". Confidential submissions must conform with the requirements of section 201.6 of the Rules of Practice and Procedure (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR 207), and part 201, subparts A through E (19 CFR 201).

This notice is published pursuant to section 207.20 of the Commission's Rules of Practice and Procedure (19 CFR 207.20, 44 F.R. 76458).

By order of the Commission.

Issued: July 10, 1981.

KENNETH R. MASON,
Secretary.

Investigation No. TA-203-11

BOLTS, NUTS, AND LARGE SCREWS OF IRON OR STEEL

Notice of Investigation and Hearing

AGENCY: United States International Trade Commission.

ACTION: Upon its own motion and on the basis of a petition filed on June 30, 1981, on behalf of the United States Fastener Manufacturing Group, the United Steel Workers of America, the International Association of Machinists and Aerospace Workers, the United Automobile, Aerospace and Agricultural Implement Workers of America, and the Industrial Union Department of the AFL-CIO, the Commission on July 9, 1981, instituted investigation No. TA-203-11 under sections 203(i)(2) and 203(i)(3) of the Trade Act of 1974 (19 U.S.C. 2253(i)(2) and (i)(3)) for the purpose of gathering information in order that it might advise the President of its judgment as to the probable economic effect on the industry concerned of the extension, reduction, or termination of import relief presently in effect with respect to lag screws or bolts, bolts (except mine-roof bolts) and bolts and their nuts imported in the same shipment, nuts, and screws having shanks or threads over 0.24 inch in diameter, all the foregoing of iron or steel, provided for in items 646.49, 646.54, 646.56, and 646.63 of the Tariff Schedules of the United States (TSUS). Relief in the form of temporary duty increases described in items 923.50, 923.51, 923.52, and 923.53 of the Appendix to the TSUS is provided for in Presidential Proclamation 4632 (issued January 4, 1979, 44 F.R. 1697). Import relief presently in effect with respect to such merchandise is scheduled to terminate at the close of business on January 5, 1982, unless extended by the President.

EFFECTIVE DATE: July 9, 1981.

FOR FURTHER INFORMATION CONTACT: David Coombs, Investigator, telephone 202-523-1376, U.S. International Trade Commission, Room 344, 701 E Street, NW., Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION:

PUBLIC HEARING ORDERED

A public hearing in connection with this investigation will be held in Washington, D.C., at 10 a.m., e.d.t., on Thursday, September 10, 1981, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW. Requests for appearances at the hearing should be received in writing by the Secretary to the Commission at his office in Washington no later than the close of business on Friday, August 21, 1981.

PREHEARING PROCEDURE

To facilitate the hearing process, it is requested that persons wishing to appear at the hearing submit prehearing briefs enumerating and discussing the issues which they wish to raise at the hearing. Nineteen copies of such prehearing briefs should be submitted to the Secretary to the Commission no later than the close of business on Wednesday, September 2, 1981. Copies of prehearing briefs submitted will be made available for public inspection in the Office of the Secretary. While submission of prehearing briefs does not prohibit submission of prepared statements in accordance with section 201.12(d) of the Commission's Rules of Practice and Procedure (19 CFR 201.12(d)), it would be unnecessary to submit such a statement if a prehearing brief is submitted instead. Oral presentations should, to the extent possible, be limited to issues raised in the prehearing briefs.

A prehearing conference will be held on Tuesday, August 25, 1981, at 10:00 a.m., e.d.t., in Room 117 of the U.S. International Trade Commission Building.

Persons not represented by counsel or public officials who have relevant matters to present may give testimony without regard to the suggested prehearing procedures outlined above.

INSPECTION OF PETITION

The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

By order of the Commission.

Issued: July 10, 1981.

KENNETH R. MASON,
Secretary.

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